

110TH CONGRESS  
1ST SESSION

# S. 592

To amend the Internal Revenue Code of 1986 to provide for a manufacturer's jobs credit, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 14, 2007

Ms. COLLINS introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to provide for a manufacturer's jobs credit, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE; ETC.**

4       (a) **SHORT TITLE.**—This Act may be cited as the  
5       “Growing Our Manufacturing Employment Act” or the  
6       “GoMe Act”.

7       (b) **AMENDMENT OF 1986 CODE.**—Except as other-  
8       wise expressly provided, whenever in this Act an amend-  
9       ment or repeal is expressed in terms of an amendment  
10      to, or repeal of, a section or other provision, the reference

1 shall be considered to be made to a section or other provi-  
 2 sion of the Internal Revenue Code of 1986.

3 **SEC. 2. MANUFACTURER'S JOBS CREDIT.**

4 (a) IN GENERAL.—Subpart D of part IV of sub-  
 5 chapter A of chapter 1 (relating to business-related cred-  
 6 its) is amended by adding at the end the following:

7 **“SEC. 450. MANUFACTURER'S JOBS CREDIT.**

8 “(a) GENERAL RULE.—For purposes of section 38,  
 9 in the case of an eligible taxpayer, the manufacturer's jobs  
 10 credit determined under this section is an amount equal  
 11 to the lesser of the following:

12 “(1) The excess of the W–2 wages paid by the  
 13 taxpayer during the taxable year over the W–2  
 14 wages paid by the taxpayer during the preceding  
 15 taxable year.

16 “(2) The W–2 wages paid by the taxpayer dur-  
 17 ing the taxable year to any employee who is an eligi-  
 18 ble TAA recipient (as defined in section 35(c)(2)) or  
 19 an eligible alternative TAA recipient (as defined in  
 20 section 35(c)(3)) for any month during such taxable  
 21 year.

22 “(3) 31.7 percent of the W–2 wages paid by the  
 23 taxpayer during the taxable year.

24 “(b) LIMITATION.—The amount of credit determined  
 25 under subsection (a) shall be reduced by an amount which

1 bears the same ratio to the amount of the credit (deter-  
 2 mined without regard to this subsection) as—

3           “(1) the excess of the W-2 wages paid by the  
 4 taxpayer to employees outside the United States  
 5 during the taxable year over such wages paid during  
 6 the most recent taxable year ending before the date  
 7 of the enactment of this section, bears to

8           “(2) the excess of the W-2 wages paid by the  
 9 taxpayer to employees within the United States dur-  
 10 ing the taxable year over such wages paid during  
 11 such most recent taxable year.

12       “(c) ELIGIBLE TAXPAYER.—For purposes of this sec-  
 13 tion, the term ‘eligible taxpayer’ means any taxpayer—

14           “(1) which has domestic production gross re-  
 15 ceipts for the taxable year and the preceding taxable  
 16 year, and

17           “(2) which is not treated at any time during  
 18 the taxable year as an inverted domestic corporation  
 19 under section 7874.

20       “(d) DEFINITIONS.—For purposes of this section,  
 21 W-2 wages and domestic production gross receipts shall  
 22 be determined in the same manner as under section 199.

23       “(e) CERTAIN RULES MADE APPLICABLE.—For pur-  
 24 poses of this section, rules similar to the rules of section  
 25 52 shall apply.

1       “(f) TERMINATION.—This section shall not apply to  
2 any taxable year beginning after December 31, 2009.”.

3       (b) CREDIT TO BE PART OF GENERAL BUSINESS  
4 CREDIT.—Section 38(b) (relating to current year business  
5 credit) is amended by striking “plus” at the end of para-  
6 graph (30), by striking the period at the end of paragraph  
7 (31) and inserting “, plus”, and by adding at the end the  
8 following:

9               “(32) the manufacturer’s jobs credit determined  
10 under section 45O.”.

11       (c) CLERICAL AMENDMENT.—The table of sections  
12 for subpart D of part IV of subchapter A of chapter 1  
13 is amended by adding at the end the following:

“Sec. 45O. Manufacturer’s jobs credit”.

14       (d) EFFECTIVE DATE.—The amendments made by  
15 this section shall apply to taxable years beginning after  
16 December 31, 2007.

17 **SEC. 3. EXTENSION OF RESEARCH CREDIT.**

18       (a) IN GENERAL.—Section 41(h)(1)(B) is amended  
19 by striking “2007” and inserting “2012”.

20       (b) CONFORMING AMENDMENT.—Section  
21 45C(b)(1)(D) is amended by striking “2007” and insert-  
22 ing “2012”.

23       (c) EFFECTIVE DATE.—The amendments made by  
24 this section shall apply to amounts paid or incurred after  
25 December 31, 2007.

1 **SEC. 4. CLARIFICATION OF ECONOMIC SUBSTANCE DOC-**  
 2 **TRINE.**

3 (a) IN GENERAL.—Section 7701 is amended by re-  
 4 designating subsection (p) as subsection (q) and by insert-  
 5 ing after subsection (o) the following new subsection:

6 “(p) CLARIFICATION OF ECONOMIC SUBSTANCE  
 7 DOCTRINE; ETC.—

8 “(1) GENERAL RULES.—

9 “(A) IN GENERAL.—In any case in which  
 10 a court determines that the economic substance  
 11 doctrine is relevant for purposes of this title to  
 12 a transaction (or series of transactions), such  
 13 transaction (or series of transactions) shall have  
 14 economic substance only if the requirements of  
 15 this paragraph are met.

16 “(B) DEFINITION OF ECONOMIC SUB-  
 17 STANCE.—For purposes of subparagraph (A)—

18 “(i) IN GENERAL.—A transaction has  
 19 economic substance only if—

20 “(I) the transaction changes in a  
 21 meaningful way (apart from Federal  
 22 tax effects) the taxpayer’s economic  
 23 position, and

24 “(II) the taxpayer has a substan-  
 25 tial nontax purpose for entering into  
 26 such transaction and the transaction

1 is a reasonable means of accom-  
2 plishing such purpose.

3 In applying subclause (II), a purpose of  
4 achieving a financial accounting benefit  
5 shall not be taken into account in deter-  
6 mining whether a transaction has a sub-  
7 stantial nontax purpose if the origin of  
8 such financial accounting benefit is a re-  
9 duction of income tax.

10 “(ii) SPECIAL RULE WHERE TAX-  
11 PAYER RELIES ON PROFIT POTENTIAL.—A  
12 transaction shall not be treated as having  
13 economic substance by reason of having a  
14 potential for profit unless—

15 “(I) the present value of the rea-  
16 sonably expected pre-tax profit from  
17 the transaction is substantial in rela-  
18 tion to the present value of the ex-  
19 pected net tax benefits that would be  
20 allowed if the transaction were re-  
21 spected, and

22 “(II) the reasonably expected  
23 pre-tax profit from the transaction ex-  
24 ceeds a risk-free rate of return.

1           “(C) TREATMENT OF FEES AND FOREIGN  
 2           TAXES.—Fees and other transaction expenses  
 3           and foreign taxes shall be taken into account as  
 4           expenses in determining pre-tax profit under  
 5           subparagraph (B)(ii).

6           “(2) SPECIAL RULES FOR TRANSACTIONS WITH  
 7           TAX-INDIFFERENT PARTIES.—

8           “(A) SPECIAL RULES FOR FINANCING  
 9           TRANSACTIONS.—The form of a transaction  
 10          which is in substance the borrowing of money  
 11          or the acquisition of financial capital directly or  
 12          indirectly from a tax-indifferent party shall not  
 13          be respected if the present value of the deduc-  
 14          tions to be claimed with respect to the trans-  
 15          action is substantially in excess of the present  
 16          value of the anticipated economic returns of the  
 17          person lending the money or providing the fi-  
 18          nancial capital. A public offering shall be treat-  
 19          ed as a borrowing, or an acquisition of financial  
 20          capital, from a tax-indifferent party if it is rea-  
 21          sonably expected that at least 50 percent of the  
 22          offering will be placed with tax-indifferent par-  
 23          ties.

24          “(B) ARTIFICIAL INCOME SHIFTING AND  
 25          BASIS ADJUSTMENTS.—The form of a trans-

1 action with a tax-indifferent party shall not be  
 2 respected if—

3 “(i) it results in an allocation of in-  
 4 come or gain to the tax-indifferent party in  
 5 excess of such party’s economic income or  
 6 gain, or

7 “(ii) it results in a basis adjustment  
 8 or shifting of basis on account of over-  
 9 stating the income or gain of the tax-indif-  
 10 ferent party.

11 “(3) DEFINITIONS AND SPECIAL RULES.—For  
 12 purposes of this subsection—

13 “(A) ECONOMIC SUBSTANCE DOCTRINE.—  
 14 The term ‘economic substance doctrine’ means  
 15 the common law doctrine under which tax bene-  
 16 fits under subtitle A with respect to a trans-  
 17 action are not allowable if the transaction does  
 18 not have economic substance or lacks a business  
 19 purpose.

20 “(B) TAX-INDIFFERENT PARTY.—The  
 21 term ‘tax-indifferent party’ means any person  
 22 or entity not subject to tax imposed by subtitle  
 23 A. A person shall be treated as a tax-indifferent  
 24 party with respect to a transaction if the items  
 25 taken into account with respect to the trans-



1           action have no substantial impact on such per-  
2           son’s liability under subtitle A.

3           “(C) EXCEPTION FOR PERSONAL TRANS-  
4           ACTIONS OF INDIVIDUALS.—In the case of an  
5           individual, this subsection shall apply only to  
6           transactions entered into in connection with a  
7           trade or business or an activity engaged in for  
8           the production of income.

9           “(D) TREATMENT OF LESSORS.—In apply-  
10          ing paragraph (1)(B)(ii) to the lessor of tan-  
11          gible property subject to a lease—

12                 “(i) the expected net tax benefits with  
13                 respect to the leased property shall not in-  
14                 clude the benefits of—

15                         “(I) depreciation,

16                         “(II) any tax credit, or

17                         “(III) any other deduction as  
18                         provided in guidance by the Secretary,  
19                         and

20                 “(ii) subclause (II) of paragraph  
21                 (1)(B)(ii) shall be disregarded in deter-  
22                 mining whether any of such benefits are al-  
23                 lowable.

24           “(4) OTHER COMMON LAW DOCTRINES NOT AF-  
25          FECTED.—Except as specifically provided in this

1 subsection, the provisions of this subsection shall not  
2 be construed as altering or supplanting any other  
3 rule of law, and the requirements of this subsection  
4 shall be construed as being in addition to any such  
5 other rule of law.

6 “(5) REGULATIONS.—The Secretary shall pre-  
7 scribe such regulations as may be necessary or ap-  
8 propriate to carry out the purposes of this sub-  
9 section. Such regulations may include exemptions  
10 from the application of this subsection.”.

11 (b) EFFECTIVE DATE.—The amendments made by  
12 this section shall apply to transactions entered into after  
13 the date of the enactment of this Act.

